

HOUSE BILL REPORT

E2SSB 6609

As Passed House:
March 9, 2010

Title: An act relating to infrastructure financing for local governments.

Brief Description: Concerning infrastructure financing for local governments.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Delvin, Hobbs, Kilmer, Gordon, Kauffman and Shin).

Brief History:

Committee Activity:

None.

Floor Activity:

Passed House: 3/9/10, 96-1.

Brief Summary of Engrossed Second Substitute Bill

- Increases the total "state contribution" for the Local Revitalization Financing (LRF) program by \$1.95 million and dedicates the increase to six named demonstration projects.
- Ties Department of Revenue approval of the six LRF demonstration projects to completion of an economic analysis by the University of Washington, including a probability assessment related to estimates of job creation and revenue increases.
- Authorizes a taxing district to participate in the LRF program on a partial basis and a sponsoring local government to issue revenue bonds under certain conditions.
- Authorizes an increment and revitalization area to overlap when certain conditions and constraints are met.
- Revises the requirements that must be met before a sponsoring jurisdiction can impose a local sales and use tax under the Local Infrastructure Financing Tool program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Meg Van Schoorl (786-7105).

Background:

Traditional Tax Increment Financing and Washington State Programs.

Traditional "tax increment financing" is a method of allocating a portion of property taxes to finance economic development in urban areas. A local government establishes a special district and issues bonds to finance the costs of making public improvements within the district. Because construction of public improvements tends to increase the market values of nearby properties, increases in such value can result in increased property taxes for each taxing district that includes property near the public improvement. Under tax increment financing, the local government making the improvement receives all of the resulting tax revenue increase and is permitted to draw upon it to repay its bondholders.

The Washington Legislature has authorized creation of several programs based upon the concept of tax increment financing: the 1982 Tax Increment Financing Act (found to be an unconstitutional diversion of state property taxes away from the common schools); the 2001 Community Revitalization Financing Act (in use by five areas within Spokane County); the 2006 Local Infrastructure Financing Tool, or LIFT (in use by eight cities and one county); and the 2009 Local Revitalization Financing (LRF) program.

The 2009 Local Revitalization Financing Program.

Creation Process. The LRF program authorizes a city, town, county, or combination, to create a "revitalization area" and to make infrastructure and other public improvements within it. The sponsoring local government must: provide notice of intent to create such an area to all taxing districts and local governments with boundaries within the area; provide public notice, hold a public hearing, and adopt a revitalization area ordinance that describes the boundaries, the public improvements, the costs, the portion to be financed, and other information.

Special Conditions. A taxing district that does not wish to participate must "opt out" by adopting an ordinance to remove itself before the sponsoring local government adopts the revitalization area ordinance. A revitalization area may not have within its boundaries a hospital benefit zone, a community revitalization financing increment area, a local infrastructure financing tool revenue development area, or another revitalization area.

Financing Mechanisms. The sponsoring local government may issue general obligation bonds to finance the public improvements in the revitalization area and may retire the debt through increased local sales/use tax and local property tax revenues generated from within the revitalization area. The debt may also be paid from non-tax moneys available to the local government such as income, revenue, fees, grants, and contributions. The debt may also be repaid through a "state contribution" in the form of a new local sales and use tax that is credited against the state sales and use tax. Imposition of the new tax does not increase the combined sales and use tax rates paid by consumers.

Demonstration and Competitive Projects. The 2009 legislation designated seven LRF demonstration projects, provided a total "state contribution" of \$2.25 million per fiscal year, and set a specific "state contribution" amount for each project ranging from \$200,000 to \$500,000. The legislation also provided for a "first come" competitive process to be administered by the Department of Revenue (DOR) in order to enable additional sponsoring local governments to seek a "state contribution." The total "state contribution" provided under the competitive process was \$2.5 million per fiscal year, and the maximum "state contribution" per project was \$500,000 per fiscal year. The DOR began accepting applications on September 1, 2009. Thirteen applications were received. Six projects were allocated "state contributions" before the \$2.5 million cap was reached. Seven additional applications received no "state contribution."

Summary of Bill:

LRF Program Modifications — Creation Process. Requirements as to which taxing districts must receive notice of intent to create a revitalization area and the timing of such notice in advance of the public hearing are modified. Requirements for additional detail to be included in the ordinance are provided.

LRF Program Modifications — Special Conditions. A taxing district may, under an interlocal agreement, become a participating taxing district by allowing one or more, but not all, of its regular property tax levies to be used by the sponsoring local government. Alternatively, a taxing district may participate on a partial basis by providing a specified amount of money for a specified amount of time to a sponsoring local government. In that case, the taxing district must first adopt an ordinance "opting out" as a participating taxing district, and then indicate the specifics of its partial participation through an interlocal agreement.

LRF Program Modifications — Financing Mechanisms. A sponsoring local government that intends to issue general obligation bonds must allow for public comment and then adopt a resolution that indicates the maximum amount of indebtedness intended to be incurred. A sponsoring local government is authorized to issue revenue bonds payable from local property tax allocation revenues and LRF sales and use tax revenues that have been deposited into a special fund.

LRF Program Modifications — Demonstration Projects. The "state contribution" limit for demonstration projects is increased by \$1.95 million. The DOR is to approve six demonstration projects, up to prescribed funding levels, in 2010. The designated demonstration projects are the six that received no "state contribution" in September 2009, and they include: the Richland Revitalization Area for Industry, Science, and Education; the Lacey Gateway Town Center; the Mill Creek East Gateway Planned Urban Village Revitalization Area; the Puyallup River Road Revitalization Area; the Renton South Lake Washington project; and the New Castle Downtown project.

The projects' sponsoring local governments must update and resubmit their applications to the DOR by September 1, 2010 to demonstrate that the projects meet statutory requirements and are substantially the same as the project submitted in 2009. If a demonstration project

does not update and resubmit its application by the deadline or if it withdraws its application, the associated dollars are not made available for other projects.

The resubmitted applications of the demonstration projects may not be approved unless an economic analysis by a qualified researcher at the Department of Economics at the University of Washington confirms that there is an 85 percent probability that the applications' assumptions and estimates of jobs created and increased tax receipts will be achieved by the project and determines that net state tax revenue will increase as a result of the project by an amount that equals or exceeds the award authorized. Before submitting the analysis to the DOR, the researcher must consult with the Washington Economic Development Commission (Commission) about the preliminary findings, and must include the Commission's comments and recommendations in the final economic analysis. Within 90 days of the resubmittals, the economic analysis must be complete and the DOR must either approve or deny the applications.

LRF Program Modifications — Other. A definition of "bonds" is added to the LRF statute. The definitions of "regular property taxes" and "revenues from local public sources" are changed to reflect the new policies related to partial participation by taxing districts. The definition of a "participating taxing district" is clarified. Annual reports from sponsoring local governments must include particular information about revenues from public sources that will be used for bond payment.

Community Revitalization Financing (CRF) and LRF Area Overlays. The boundaries of an LRF revitalization area may include all or part of an existing CRF increment area only when three specific conditions are met: (1) the state has loaned Brownfield Cleanup Funding to the area; (2) the environmental clean-up has been completed; and (3) the sponsoring local government determines it must create the revitalization area to protect the state's investment. In this circumstance, the increased local property tax revenues generated within the revitalization area may not be distributed to the sponsoring local government to pay the costs of the public improvements financed under the LRF.

Local Infrastructure Financing Tool (LIFT) Provisions. The existing requirement that state allocation revenues must exceed the project award amount before a local sales and use tax can be imposed is eliminated. It is replaced by the requirement that no local sales and use tax may be imposed until a sponsoring jurisdiction reports to the Department of Revenue (DOR) and the Community Economic Revitalization Board (CERB) that the state has benefitted through the receipt of state allocation revenues. The maximum state contribution for a LIFT project in any calendar year is limited to the highest amount of state allocation revenues in any preceding year as reported to the DOR and the CERB. The definition section of the LIFT statute expires in June 30, 2039.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.